

Application No.: 09/369410

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Remarks

With this paper, Applicant has cancelled claims 1 through 20 and added new claims 21 through 38 which are now presented for examination. Support for the amendments may be found throughout the specification as filed, including the documents and references cited and incorporated therein.

With the submission of new claims 21-38 in the application, it is believed that the previous rejections of Applicant's now cancelled claims are moot. In any event, Applicant will address aspects of the rejections contained in the final Office Action of February 2, 2004. Applicant's claims 1-6 and 11-18 were rejected under 35 U.S.C. §102(b) in view of Sandstrom (5,631,171). Applicant notes the detailed quotations from the Sandstrom patent that are included within the Office Action. However, unlike the Sandstrom, the present invention provides a system comprising a chemical indicator and an apparatus for reading the chemical indicator (see claim 21). The chemical indicator comprises a substantially flat surface capable of reflecting energy, and a sterilizing agent sensitive ink associated with the surface, the ink providing a first indicating state prior to being exposed to the sterilization process, and a second indicating state after being exposed to at least a portion of the sterilization process, the first and the second indicating states being distinguished one from the other by color of the surface; and an apparatus for reading the chemical indicator, the apparatus comprising;

- (1) an illumination source configured and positioned to provide energy and to direct the energy toward the substantially flat surface of the chemical indicator;
- (2) a detector configured to collect energy reflected from the substantially flat surface and to provide a signal characteristic of the wavelength of the energy reflected from the substantially flat surface;
- (3) positioning means for positioning the substantially flat surface of the chemical indicator relative to the illumination source and the detector;
- (4) a controller controllably connected to the detector and the illumination source; and

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- (5) processing means for processing the signal from the detector to distinguish the first and second states and for determining whether the chemical indicator is in the first state or the second state.(see new claim 21)

In contrast, Sandstrom appears to relies on the polarization characteristics of the light reflected by a sample, rather than the wavelength, to determine the properties of thickness or refractive index.

Claims 1, 4-7, 9-11, 12 and 14-18 were rejected under 35 U.S.C. §102(e) in view of Howard III, et al. (6,180,409). Howard discloses an apparatus for inspecting a reagent strip that has been exposed to a fluid sample. Applicant has noted the lengthy excerpt in the Office Action taken from column 3 of the Howard disclosure. However, Applicant has noted no teaching within the Howard disclosure of a system comprising a chemical indicator and an apparatus for reading a chemical indicator as set forth in the present application such as in new claim 21, for example.

Claims 1, 4-10, 12 and 14-18 were rejected under 35 U.S.C. §102(e) in view of Bolea (6,063,591). Bolea is different from the present invention because Bolea requires the interpretation of the fluorescence of a biological indicator, rather than the color change of a chemical indicator according to the present invention. As mentioned in Applicant's previous response of October 27, 2003, Bolea teaches away from the present invention because Bolea knows what color it is looking for (i.e. the fluorescence of the converted substrate, see the reference at the paragraph starting at col. 3, line 66), and is only interested in distinguishing in the least possible time from the background autofluorescence whether the intensity of the light at that known color is increasing in a significant way (e.g., see the reference at col. 5, line 38 and following).

In view of the foregoing, Applicant respectfully requests the reconsideration and the withdrawal of the various rejections contained in the final Office Action.

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Applicant has endeavored to address all of the issues raised in the recent final Office Action. It is believed that the application is in condition for allowance, and the allowance of all claims is now requested.

Respectfully submitted,

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